

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD
SPECIAL CIVIL APPLICATION No. 1690 of 2001

For Approval and Signature:

HONOURABLE MR. JUSTICE B.J.SHETHNA
AND
HONOURABLE MR.JUSTICE H.B.ANTANI

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- 1 Whether Reporters of Local Papers may be allowed to see the judgment?
- 2 To be referred to the Reporter or not?
- 3 Whether Their Lordships wish to see the fair copy of the judgment?
- 4 Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 or any Order made thereunder?
- 5 Whether it is to be circulated to the Civil Judge?

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UNION OF INDIA AND OTHERS - Petitioners
Versus
RATNA MANIYA - Respondent

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Appearance :

MR MUKESH A PATEL for the Petitioners.
MR PH PATHAK for the Respondent.

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CORAM : HONOURABLE MR. JUSTICE B.J.SHETHNA

and

HONOURABLE MR.JUSTICE H.B.ANTANI

Date : 12/01/2007

ORAL JUDGMENT

(Per : HONOURABLE MR. JUSTICE B.J.SHETHNA)

1. The petitioners - Union of India and others have challenged the impugned judgment and order dated 17-02-2000 passed by the Central Administrative Tribunal, Ahmedabad Bench, Ahmedabad (for short "*the Tribunal*"), whereby the learned Tribunal allowed the application filed by the original applicant and directed the original respondents to continue the applicant as a Casual Labourer - cum - Gangmate in the appropriate pay-scale. Regarding his pay, by an interim order dated 11-03-1994, he was given Higher Pay in the pay-scale of Gangmate by the learned Tribunal. However, from November 1993, his pay was brought down and subsequently, he was not paid in the pay-scale of Gangmate. Therefore, the respondents were directed to examine the case and ensure that he is paid in the pay-scale as applicable to the Gangmate from the date of his transfer till the payment is made. This order was stayed by the Division Bench of this Court and continued while admitting this Writ Petition by issuing RULE on it.

2. From the impugned judgment and order passed by the learned Tribunal, it is clear that the Authority, without giving any opportunity of hearing to the original applicant, had reduced his pay which

is in clear violation of the principles of natural justice. It was urged before the learned Tribunal on behalf of the present petitioners that by mistake he was paid the salary. Therefore, they have corrected the mistake. Even assuming, for the sake of argument, that there was a mistake, then also, before correcting it, they should have given an opportunity of hearing.

3. In view of the above, when the learned Tribunal has passed the order in favour of the original applicant, then this Court in its limited jurisdiction under Article 227 of the Constitution of India would not like to interfere with such order. Though this petition is labelled both under Article 226 and Article 227 of the Constitution of India, strictly speaking it is a petition under Article 227 of the Constitution, the scope of which is narrow and limited. This Court cannot interfere with the order passed by the Tribunal even if it had committed error on facts or law. This Court can interfere with the order passed by the Tribunal only if there is jurisdictional error which is none in this case. Hence, this petition is rejected. Rule discharged. *Ad interim* relief granted earlier stands vacated.

[B. J. SHETHNA, J.]

[H. B. ANTANI, J.]

/shamnath